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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,014	12/15/2003	Richard A. Proulx	086333.5	4185
34261	7590	10/20/2004		
HOLLAND & KNIGHT LLP 633 WEST FIFTH STREET, TWENTY-FIRST FLOOR LOS ANGELES, CA 90071-2040			EXAMINER GOODMAN, CHARLES	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 10/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/736,014	Applicant(s) PROULX ET AL.	
	Examiner Charles Goodman	Art Unit 3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-8, 10, 13-16, 18-21, 23, 25, 27, 29-32, 34, 36, and 38-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-13 of U.S. Patent No. 6,519,857 (hereinafter referred to as Proulx et al '857) in view of Close et al (US 4,411,069), Jerez (US 6,247,539), and Sheldon (US 6,249,978).

Proulx et al '857 includes all the limitations of the current claims including, inter alia, i.e. a housing; an annular wall portion; a perimeter wall; a line support wall; a line engagement cam; and a spring member. However the claimed invention of Proulx et al '857 lacks at least a portion of the support wall having a wear resistant surface. In that regard, Close et al teaches a line engagement cam (84, 86 or 126, 128) acting against a wear resistant surface on a line support wall (the other of 84, 86 or 126, 128) which are metallic (e.g. c. 6, ll. 31-36 - obviously encompasses stainless steel) to thereby provide a

robust positive clamping engagement of the flexible line (e.g. 18). Figs. 7-17. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the claimed device of Proulx et al '857 with at least a portion of the line support wall having a wear resistant surface as taught and suggested by Close et al in order to facilitate a more robust clamping engagement of the flexible compared to the wall portion without a wear resistant surface.

Regarding claims 9, 12, 17, 24, 28, and 33, the modified claimed device of Proulx et al '857 discloses the invention substantially as claimed except for air vents. However, Jerez teaches a plurality of openings (e.g. 14) on a cover (10) communicating with a central opening while not for the specific purpose of venting air, the fact that they are in communication with the central opening of the housing inherently allows venting. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified claimed device of Proulx et al '857 with the vents as taught and suggested by Jerez in order to facilitate additional snap engagement between the cover and the housing while allowing venting of air due to the fact that not all the vents must be used for parts engagement.

Regarding claims 11, 22, 26, and 35, the modified claimed device of Proulx et al '857 discloses the invention substantially as claimed except for the cover including a plurality of arcuate projections. However, Sheldon teaches a trimmer cover (e.g. 36) having a plurality of arcuate projections (e.g. 42) which maintains the orientation of the cutting members (34) which pivots with respect to the housing. See Figs. 2-3. Although the teachings of Sheldon are directed to the cutting member, the same may be applied and arguably obvious to apply to the claimed engagements cams of the Proulx et al '857

claimed device, since the engagement cam pivots with respect to the housing. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the modified claimed device of Proulx et al '857 with the arcuate projections as taught and suggested by Sheldon for the reasons stated supra.

3. Claims 1-41 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-35 of copending Application No. 10/314,674 (hereinafter referred to as Proulx et al '674) in view of Close et al (US 4,411,069).

Proulx et al '674 includes all the limitations of the current claims including, inter alia, i.e. a housing; an annular wall portion; a perimeter wall; a line support wall; a line engagement cam; and a spring member. However the claimed invention of Proulx et al '674 lacks at least a portion of the support wall having a wear resistant surface. In that regard, Close et al teaches a line engagement cam (84, 86 or 126, 128) acting against a wear resistant surface on a line support wall (the other of 84, 86 or 126, 128) which are metallic (e.g. c. 6, ll. 31-36 - obviously encompasses stainless steel) to thereby provide a robust positive clamping engagement of the flexible line (e.g. 18). Figs. 7-17. Thus, it would have been obvious to the ordinary artisan at the time of the instant invention to provide the claimed device of Proulx et al '674 with at least a portion of the line support wall having a wear resistant surface as taught and suggested by Close et al in order to facilitate a more robust clamping engagement of the flexible compared to the wall portion without a wear resistant surface.

This is a provisional obviousness-type double patenting rejection.

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Conclusion


4. Alliss, Brant et al, Moore et al, Iacona et al '348, Iacona et al '424, Taguchi, Rouse, Gullett, Bottamiller et al, Harken, Thurber, Walto, Luick, and Geist et al are cited as pertinent art.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Goodman whose telephone number is (703) 308-0501. The examiner can normally be reached on Monday-Thursday between 7:30 AM to 6:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap, can be reached on (703) 308-1082.

In lieu of mailing, it is encouraged that all formal responses be faxed to (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is (703) 308-1148.

cg 
October 18, 2004


Charles Goodman
Primary Examiner
AU 3724

CHARLES GOODMAN
PRIMARY EXAMINER